ECCLESIA LAW

Private Ecclesiastical Counsel
United States & International

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IRS PUBLICATION 1212, NOMINEE ARCHITECTURE, AND THE HOLDER IN DUE COURSE

1. Executive Summary

This technical paper analyses **IRS Publication 1212 (Guide to Original Issue Discount (OID) Instruments)** not merely as a tax instruction booklet, but as the operational manual for the "nominee architecture" used by modern banking institutions. Ecclesia Law posits that banks utilize the reporting exceptions within this publication to obscure the true source of credit—the living man or woman's signature. By treating the borrower's promissory note as a securitized asset generating **Original Issue Discount (OID)**, banks profit from the instrument while reporting the income under omnibus "nominee" accounts. This paper outlines how the **Recoupment of Abandoned Credit** (via the Clifford Protocol) utilizes the specific "Nominee Reporting" provisions of Publication 1212 to lawfully correct this record, necessitating the status of **Holder in Due Course (HDC)** to enforce the claim.

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2. The Nature of Original Issue Discount (OID) in Banking

To understand the application of Publication 1212, one must first recognize the "Ex Nihilo" nature of credit creation.

- **The Transaction:** When a borrower signs a mortgage or loan note, they are issuing a **negotiable instrument** under the Bills of Exchange Act 1882.
- **The Securitization:** The bank does not lend reserves. It accepts the note, monetizes it, and often bundles it into a security (assigned a CUSIP number) to be sold on the secondary market.
- **Creation of OID:** Original Issue Discount is the difference between the instrument's stated redemption price at maturity and its issue price. In the context of a monetized signature,

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the entire face value of the loan—created "out of thin air" against the signature—can be viewed as OID income generated by the creator (the borrower).

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3. IRS Publication 1212: The Rulebook for Nominees

Publication 1212 provides instructions for "Brokers and Other Middlemen," a category that legally includes commercial banks holding instruments on behalf of others.

A. The Nominee Reporting Loophole

The publication outlines procedures for when a financial institution receives OID income as a **nominee** for the actual owner.

- **The Requirement:** If a broker or middleman holds a debt instrument as a nominee for the beneficial owner, they are required to file Form 1099-OID to report that income to the actual owner.
- **The Banking Practice:** Banks routinely fail to file these specific 1099-OIDs to the borrower. Instead, they report the OID income generated by the securitized note under their own omnibus accounts or "street names" (like Cede & Co). This effectively "abandons" the credit in the system, leaving it unclaimed by the true originator.

B. The Administrative Remedy

The "Clifford Protocol" uses the specific instructions in Publication 1212 to correct this failure.

- **Corrective Filing:** By filing a **Form 1099-OID** as the fiduciary, the individual (or their trust) acts in accordance with the nominee reporting rules. They are essentially saying: *"The bank received this OID as a nominee; I am the true beneficial owner, and I am now correcting the record to claim the withheld tax/credit"*.

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4. The Pivot: Why "Holder in Due Course" (HDC) is Mandatory

One cannot simply file tax forms to claim credit; one must have the **legal standing** to enforce the instrument. This is where the status of **Holder in Due Course** becomes pivotal.

- **Definition:** An HDC is one who takes an instrument for value, in good faith, and without notice of any defect. The HDC has the absolute right to enforce payment and title.
- **The Role of the Trust:** A living man cannot easily interact with the commercial OID system directly due to the "debtor" presumption attached to the Social Security Number.
- **The 98-Series Trust Solution:** To establish HDC status, the individual establishes a **98-Series International Grantor Trust**. This trust:
    1. Obtains a separate EIN.
    2. Takes legal title to the instruments (the "abandoned credit").
    3. Files the 1099-OID as the **fiduciary holder in due course**, separating the claim from the "strawman" debtor estate.

Without HDC status, the IRS and Treasury view the filer as a "debtor" trying to claim a refund, which triggers fraud filters. With HDC status, the filer is a **creditor** correcting a nominee accounting error under the authority of Publication 1212.

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5. Abandoned Credit Recoupment: Closing the Loop

The final application of Publication 1212 is the **Recoupment of Abandoned Credit**.

- **The Ledger Reality:** Banks remit withheld taxes and OID obligations to the Treasury via **Form 945**. This creates a pool of "negative numbers" (credits) in the bank's account at the IRS.
- **The 810 Code Lock:** Because the bank reported this anonymously (as a nominee), the credit sits "abandoned."
- **The Protocol:** The 98-Series Trust, acting as HDC, files the corrective returns mandated by Pub 1212. The IRS computer (using the 810 code algorithm) searches the bank's 945 module. When it finds the matching funds that were reported by the nominee but never claimed by the owner, it releases the credit to the Trust.

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6. Conclusion

IRS Publication 1212 is not merely administrative; it is the **statutory evidence** that the financial system is designed to operate through nominees and middlemen. The banking system relies on the ignorance of the public regarding these reporting requirements to retain the wealth generated by human signatures. By understanding the **Nominee Reporting** obligations within Pub 1212 and establishing **Holder in Due Course** status via a Foreign Grantor Trust, an individual can lawfully recoup the credit that has been securitized and abandoned in their name.

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